

FILED

OCT 24 2007

NEBRASKA DEPARTMENT  
OF INSURANCE

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

TIME INSURANCE COMPANY,

RESPONDENT.

CONSENT ORDER

CAUSE NO. C-1664

NOV 06, 2007 ACCT# 8521 \$1,500.00  
NO-INVOICE 72600 TRANS 1009496  
TIME INSURANCE COMPANY  
CHECK# 4007890

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Joel F. Green and Time Insurance Company ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to NEB. REV. STATS. §§ 44-101.01, 44-135, and 44-303 et seq. (Reissue 2004). Said jurisdiction and control have been present at all times material hereto.

2. Respondent is a Wisconsin domiciled insurer licensed to conduct business in Nebraska as a foreign insurer.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Time Insurance Company, Cause

Number C-1664 on September 25, 2007. A copy of the petition was served upon the Respondent by mailing a copy to Respondent's registered agent for service of process, Christina R. Palme-Krizak, located at 501 W. Michigan Street, Milwaukee, WI 53203, by certified mail, return receipt requested.

2. Respondent allegedly violated NEB. REV. STAT. §§ 44-1540(3), 44-1540(4) and 44-1540(7) as a result of the following conduct:

- a. On or about October 12, 2006, the Complainant, Thomas C. Lauritsen, herein referred to as "Lauritsen," was the recipient of medical services provided by Dr. Michael Domalakes. The claim, resulting from the services provided by Dr. Domalakes, was initially paid by Respondent on November 10, 2006. Subsequently, a refund of \$193 was requested by Respondent and received on January 8, 2007 based upon the claim for said services was not submitted with a diagnosis code indicating the treatment of an illness.
- b. On or about May 17, 2007, Respondent received a resubmitted copy of the claim with diagnosis code indicating the services provided by Dr. Domalakes related to the treatment of an illness, which under the terms of the policy issued to Lauritsen by Respondent, transfers liability for payment of the resubmitted to the Respondent. On May 30, 2007, Respondent improperly denied the resubmitted claim. An appeal by Lauritsen of the Respondent's May 30, 2007 claim denial resulted in subsequent denial of the aforementioned claim by the Respondent on or around July 23, 2007.
- c. As a result of the July 23, 2007 claim denial, Lauritsen filed a complaint with the Nebraska Department of Insurance on July 27, 2007, notifying the Department of the Respondent's continuing refusal to effectuate prompt settlement of an outstanding claim.
- d. On or around August 1, 2007 and August 21, 2007, Barbara L. Ems, Insurance Investigator for the Department, sent letters of investigative inquiry to Respondent asking the Respondent to reply to the Department's investigation into the above-referenced complaint.
- e. On or around September 12, 2007, the Department received a response to the August 21, 2007 letter of inquiry from Mary Beth Fleege, Market Conduct Analyst for Respondent, in which the Respondent specifically provides, "[i]n 2004 we changed our internal guidelines for the handling of claims for DEXA scans for appeals. If the diagnosis code on the original claim is

changed from a V code to a diagnosis indicating an illness we will reprocess the corrected claim as a Covered Charge subject to all the terms, limits and conditions of the plan. When the claim in question was resubmitted with diagnosis code 733.00 it should have been reprocessed as a Covered Charge. However, instead of reprocessing the claim as a Covered Charge the medical records were sent to our Health Management department to determine if the diagnosis code change was appropriate. Our Health Management department determined that the change in diagnosis was not appropriate. As a result, the claim was denied as non-covered Wellness service. Our letter of July 23, 2007 to Mr. Lauritsen explains that the change in diagnosis code is not appropriate. When we received your letter of August 1, 2007 we reviewed our handling of this claim and found that it was not handled according to our internal guidelines for appeals on DEXA scans. We have provided feedback and additional training to members of our staff to ensure that this error does not happen again." The multiple wrongful denials of the above-referenced claim coupled with the Respondent's admission of its failure to adhere to its own guidelines for the investigating and handling of claims demonstrates a failure to implement standards for the prompt settlement of claims arising under the Respondent's policies and a lack of attempting in good faith to effectuate a prompt and equitable settlement of claims in which liability was reasonably clear.

3. Respondent was informed of its right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving the right to a public hearing, Respondent also waives the right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations stated in Paragraph 2.

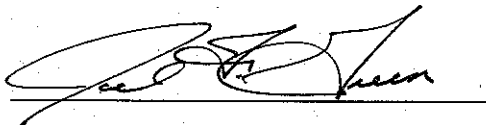
#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes a violation of NEB. REV. STAT. §§ 44-1540(3), 44-1540(4) and 44-1540(7) and is subject to disciplinary action pursuant to NEB. REV. STAT. § 44-1542 (Reissue 2004).

CONSENT ORDER

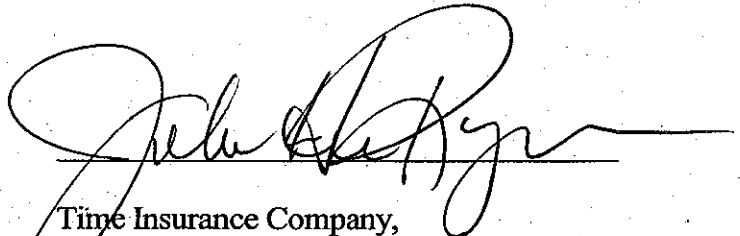
It is therefore ordered by the Director of Insurance and agreed by Respondent, Time Insurance Company, that Respondent shall pay an administrative fine in the amount of one thousand five hundred dollars (\$1500.00) due within 30 days after the Director of Insurance or his designee approves and signs this consent order.

The Department of Insurance will continue to retain jurisdiction over this matter. If Respondent fails to pay the amount required as specified under this consent order, additional administrative action shall be taken by the Petitioner, which may include revocation of Respondent's Nebraska certificate of authority. In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his/her signature below.



Joel F. Green, #22900  
Attorney for Petitioner  
941 "O" Street, Suite 400  
Lincoln, NE 68508  
(402) 471-2201

Date 10/19/07



Time Insurance Company,  
Respondent

By: Vice President & Under  
Comptroller

Date 10/09/07

State of Wisconsin )  
County of Milwaukee ) ss.

On this 7<sup>th</sup> day of October, 2007, an authorized representative of Time Insurance Company personally appeared before me and read this

My Commission expires  
on Aug 31, 2008  
Suzanne Szyganski

Consent Order, executed the same and acknowledged the same to be his/her voluntary act and deed.

Suzanne J. Jepsen  
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Time Insurance Company, Cause No. C-1664.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

Ann M. Frohman

ANN M. FROHMAN  
Acting Director of Insurance

10 / 24 / 07  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent by mailing a copy to Respondent's registered agent for service of process, Christina R. Palme-Krizak, located at 501 W. Michigan Street, Milwaukee, WI 53203, by certified mail, return receipt requested on this 24<sup>th</sup> day of October, 2007.

Tracy G. Gurnea